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**REMARKS**

Claims 1-10 and 12-22 are currently pending in the subject application and are presently under consideration.

Applicant's representative submits that it is improper to base finality of the subject Office Action upon amending certain claims in the last Reply to recite the term "photo". It is noted that dependent claims as originally filed included the term "LED" which is a photo device, and thus the Examiner was required to search and consider such terms. Accordingly, the subject last amendments did not raise new issues requiring further search or consideration. Accordingly, it is respectfully requested that the finality of the subject Office Action be withdrawn.

The specification has been amended to correct duplicative numbering in Fig. 1, the changes of which can be found at pages 2-4. The previously numbered "imaging assembly 46" has been changed to "imaging assembly 49".

Claims 1-3, 6, 8, 21 and 22 have been amended, and are reflected in the Amendments to the Claims found at pages 5-9. Claim 1 has been amended to more precisely distinguish the present invention from the prior art. Claims 21 and 22 have been amended to more definitively claim the invention.

Figure 1 has been amended to reflect correction of the duplicate numbering. The Replacement and Annotated sheets are provided herein.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

**I. Objection of Claim 12**

Claim 12 is objected to because of the following informalities: lines 2-3, "type" should be deleted. Withdrawal of this objection is respectfully requested because "type" modifies "dataform" and is required for comprehensibility reasons.

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II. Rejection of Claims 1-10 and 12-22 Under 35 U.S.C. §103(a)

Claims 1-10 and 12-22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Li et al.* (U.S. Patent No. 5,672,858) in view of *Giordano et al.* (U.S. Patent No. 6,321,990). Withdrawal of this rejection is requested for at least the following reasons. Neither *Li et al.* nor *Giordano et al.*, alone or in combination, teach or suggest applicant's invention as recited in the subject claims.

"It is insufficient to establish obviousness that the separate elements of the invention existed in the prior art, absent some teaching or suggestion, in the prior art, to combine the elements." *Arkie Lures Inc. v. Gene Larew Tackle Inc.*, 43 USPQ2d 1294, 1297 (Fed. Cir. 1997) (emphasis added). Moreover, that such elements may have co-existed individually for an extended period of time, but never combined in the manner claimed actually supports a conclusion of non-obviousness. *Id.*

*Li et al.* teaches a scanning device for reading indicia of differing light reflectivity. The scanning device has a single light emitter, such as a laser or LED for generating a scanning light beam. The device further includes a sensor such as a CCD or other solid state imaging device that detects the light reflected from the indicia. *Li et al.* further discloses, "...an indicator of a successful read (such as a green light and/or an audible beep) is provided to the user" (col. 4, ll. 9-11).

*Giordano et al.* discloses a shock-absorbing canopy for a scanner where the scanner includes a pair of differently colored light emitting diodes that serve as status indicators of system operation. When illuminated, the light from each diode is conducted through a lens or light pipe to and through the liner and the canopy of the cover to visually advise the user of a certain system function (col. 7, ll. 35-40). A successful decode can thus be indicated visually by a, for example, green light emitted by one of the diodes or by a sound by a beeper; or, in another embodiment, by a vibrator which generates vibrations and transmits the vibrations through the handle to the user's hand in a so-called "silent operating" mode (col. 7, ll. 54-59).

Claim 1, recites "a first multicolor photo indicator to provide an indication of a valid

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read..." The Examiner admits that *Li et al.* "...fails to disclose or fairly suggest that the indication means of the reader are LEDs (*i.e.*, photo, illumination, lights) or vibration signal for indicating a valid read." Moreover, *Li et al.* teaches that a successful read may be represented by only one color of light, whereas the photo devices of the present invention can provide multiple colors in accordance with the state of the read operation. Still further, *Li et al.* fails to teach or suggest that the photo devices can provide multiple colors from a single photo device, and which photo device may be an LED. *Li et al.* also fails to teach or suggest first and second indicators of that can be used to indicate a valid read of two different portions of a hybrid dataform.

The Examiner states that *Giordano et al.* "discloses...means for indicating a successful decode, wherein the indication includes diodes 236, 238, or sound (beeper), or a vibrator for generating a vibrating signal to alert an operator." The Examiner continues by stating, "...the teachings of *Giordano* show that these indication means could be used interchangeably...for alerting operators." *Giordano et al.* teaches that the indicating devices may be used, but only in the alternative, that is, not in combination. To wit, "...successful decode can thus be indicated visually by a...green light emitted by one of the diodes or by a sound by a beeper; or, in another embodiment, by a vibrator..." (col. 7, ll. 54-57). In contrast, the present invention allows the various indicating mechanisms to be used in combination. Moreover, when using a light, the "...green light [is] emitted by one of the diodes..." (col. 7, ll. 55).

Even if combined, *Giordano et al.* fails to make up for the deficiencies of *Li et al.* The present claimed invention uses multiple indicators to indicate status of valid reads over at least two portions of a hybrid dataform. As indicated hereinabove, neither *Li et al.* nor *Giordano et al.* teach or suggest that the different type of indicators can be used in combination, as provided by the instant invention, and for the claimed purpose.

Claims 2-10 and 12 depend from claim 1, and should be allowed for at least the same reasons.

Claim 13 recites "providing the indication in the form of a photo signal if the first and second portion are valid." Neither *Giordano et al.* nor *Li et al.* teach or suggest, individually or combination, providing a photo signal in the recited manner. Thus, claim 13 and

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dependent claims 14-19 should be allowed.

Neither Giordano *et al.* nor Li *et al.* teach or suggest, individually or combination, the limitations recited in claims 20, 21, and 22. Thus for the reasons stated hereinabove, claims 20-22 should be allowed.

CONCLUSION

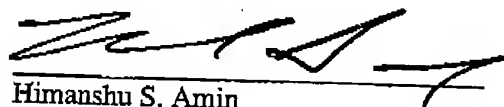
The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

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